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**UNITED STATES DISTRICT COURT  
 CENTRAL DISTRICT OF CALIFORNIA**

	) Case No.
ABANTE ROOTER AND	)
PLUMBING, INC., individually and on	) <b><u>CLASS ACTION</u></b>
behalf of all others similarly situated,	)
	) <b>COMPLAINT FOR VIOLATIONS</b>
Plaintiff,	) <b>OF:</b>
	)
vs.	) 1. NEGLIGENT VIOLATIONS
	) OF THE TELEPHONE
	) CONSUMER PROTECTION
LEADS2RESULTS, INC., and DOES 1)	) ACT [47 U.S.C. §227(b)]
through 10, inclusive, and each of them,	) 2. WILLFUL VIOLATIONS
	) OF THE TELEPHONE
	) CONSUMER PROTECTION
Defendant.	) ACT [47 U.S.C. §227(b)]
	) 3. NEGLIGENT VIOLATIONS
	) OF THE TELEPHONE
	) CONSUMER PROTECTION
	) ACT [47 U.S.C. §227(c)]
	) 4. WILLFUL VIOLATIONS
	) OF THE TELEPHONE
	) CONSUMER PROTECTION
	) ACT [47 U.S.C. §227(c)]

**DEMAND FOR JURY TRIAL**

1 Plaintiff ABANTE ROOTER AND PLUMBING, INC. (“Plaintiff”),  
2 individually and on behalf of all others similarly situated, alleges the following  
3 upon information and belief based upon personal knowledge:

4 **NATURE OF THE CASE**

5 1. Plaintiff brings this action individually and on behalf of all others  
6 similarly situated seeking damages and any other available legal or equitable  
7 remedies resulting from the illegal actions of LEADS2RESULTS, INC.  
8 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on  
9 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection  
10 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”) and related regulations, specifically the  
11 National Do-Not-Call provisions, thereby invading Plaintiff’s privacy.

12 **JURISDICTION & VENUE**

13 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
14 a California corporation with its principal place of business also in California, seeks  
15 relief on behalf of a Class, which will result in at least one class member belonging  
16 to a different state than that of Defendant, a Florida corporation. Plaintiff also seeks  
17 up to \$1,500.00 in damages for each call in violation of the TCPA, which, when  
18 aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00  
19 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and  
20 the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are  
21 present, and this Court has jurisdiction.

22 3. Venue is proper in the United States District Court for the Central  
23 District of California pursuant to 28 U.S.C. 1391(b) and because Defendant does  
24 business within the State of California and Plaintiff resides within the County of  
25 Alameda.

26 **PARTIES**

27 4. Plaintiff, ABANTE ROOTER AND PLUMBING (“Plaintiff”), is a  
28 rooting and plumbing business in Emeryville, California and is a “person” as

1 defined by *47 U.S.C. § 153 (39)*.

2 5. Defendant, LEADS2RESULTS, INC. (“Defendant”) is a marketing  
3 company, and is a “person” as defined by *47 U.S.C. § 153 (39)*.

4 6. The above named Defendant, and its subsidiaries and agents, are  
5 collectively referred to as “Defendants.” The true names and capacities of the  
6 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are  
7 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious  
8 names. Each of the Defendants designated herein as a DOE is legally responsible  
9 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the  
10 Complaint to reflect the true names and capacities of the DOE Defendants when  
11 such identities become known.

12 7. Plaintiff is informed and believes that at all relevant times, each and  
13 every Defendant was acting as an agent and/or employee of each of the other  
14 Defendants and was acting within the course and scope of said agency and/or  
15 employment with the full knowledge and consent of each of the other Defendants.  
16 Plaintiff is informed and believes that each of the acts and/or omissions complained  
17 of herein was made known to, and ratified by, each of the other Defendants.

18 **FACTUAL ALLEGATIONS**

19 8. Beginning in or around August 2018, Defendant contacted Plaintiff on  
20 Plaintiff’s cellular telephone number ending in -1080, in an attempt to solicit  
21 Plaintiff to purchase Defendant’s services.

22 9. Defendant used an “automatic telephone dialing system” as defined  
23 by *47 U.S.C. § 227(a)(1)* to place its call to Plaintiff seeking to solicit its services.

24 10. Defendant contacted or attempted to contact Plaintiff from telephone  
25 number (409) 908-3134.

26 11. Defendant’s calls constituted calls that were not for emergency  
27 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

28 12. During all relevant times, Defendant did not possess Plaintiff’s “prior

1 express consent” to receive calls using an automatic telephone dialing system or an  
2 artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. §  
3 227(b)(1)(A).

4 13. Further, Plaintiff’s cellular telephone number ending in -1080 had  
5 been on the National Do-Not-Call Registry well over thirty (30) days prior to  
6 Defendant’s initial calls.

7 14. Defendant placed multiple calls soliciting its business to Plaintiff on  
8 its cellular telephone ending in -1080 in or around August 2018.

9 15. Such calls constitute solicitation calls pursuant to 47 C.F.R. §  
10 64.1200(c)(2) as they were attempts to promote or sell Defendant’s services.

11 16. Plaintiff received numerous solicitation calls from Defendant within a  
12 12-month period.

13 17. Plaintiff requested for Defendant to stop calling Plaintiff during one  
14 of the initial calls from Defendant, thus revoking any prior express consent that had  
15 existed and terminating any established business relationship that had existed, as  
16 defined under 16 C.F.R. 310.4(b)(1)(iii)(B).

17 18. Despite this, Defendant continued to call Plaintiff in an attempt to  
18 solicit its services and in violation of the National Do-Not-Call provisions of the  
19 TCPA.

20 19. Upon information and belief, and based on Plaintiff’s experiences of  
21 being called by Defendant after requesting they stop calling, and at all relevant  
22 times, Defendant failed to establish and implement reasonable practices and  
23 procedures to effectively prevent telephone solicitations in violation of the  
24 regulations prescribed under 47 U.S.C. § 227(c)(5).

### 25 **CLASS ALLEGATIONS**

26 20. Plaintiff brings this action individually and on behalf of all others  
27 similarly situated, as a member the four proposed classes (hereafter, jointly, “The  
28 Classes”). The class concerning the ATDS claim for no prior express consent

1 (hereafter “The ATDS Class”) is defined as follows:

2 All persons within the United States who received any  
3 solicitation/telemarketing telephone calls from  
4 Defendant to said person’s cellular telephone made  
5 through the use of any automatic telephone dialing  
6 system or an artificial or prerecorded voice and such  
7 person had not previously consented to receiving such  
8 calls within the four years prior to the filing of this  
Complaint

9 21. The class concerning the ATDS claim for revocation of consent, to the  
10 extent prior consent existed (hereafter “The ATDS Revocation Class”) is defined  
11 as follows:

12 All persons within the United States who received any  
13 solicitation/telemarketing telephone calls from  
14 Defendant to said person’s cellular telephone made  
15 through the use of any automatic telephone dialing  
16 system or an artificial or prerecorded voice and such  
17 person had revoked any prior express consent to receive  
18 such calls prior to the calls within the four years prior to  
the filing of this Complaint.

19 22. The class concerning the National Do-Not-Call violation (hereafter  
20 “The DNC Class”) is defined as follows:

21 All persons within the United States registered on the  
22 National Do-Not-Call Registry for at least 30 days, who  
23 had not granted Defendant prior express consent nor had  
24 a prior established business relationship, who received  
25 more than one call made by or on behalf of Defendant  
26 that promoted Defendant’s products or services, within  
27 any twelve-month period, within four years prior to the  
filing of the complaint.

28 23. The class concerning the National Do-Not-Call violation following

1 revocation of consent and prior business relationship, to the extent they existed  
2 (hereafter “The DNC Revocation Class”) is defined as follows:

3 All persons within the United States registered on the  
4 National Do-Not-Call Registry for at least 30 days, who  
5 received more than one call made by or on behalf of  
6 Defendant that promoted Defendant’s products or  
7 services, after having revoked consent and any prior  
8 established business relationship, within any twelve-  
9 month period, within four years prior to the filing of the  
10 complaint.

11 24. Plaintiff represents, and is a member of, The ATDS Class, consisting  
12 of all persons within the United States who received any solicitation telephone calls  
13 from Defendant to said person’s cellular telephone made through the use of any  
14 automatic telephone dialing system or an artificial or prerecorded voice and such  
15 person had not previously not provided their cellular telephone number to  
16 Defendant within the four years prior to the filing of this Complaint.

17 25. Plaintiff represents, and is a member of, The ATDS Revocation Class,  
18 consisting of all persons within the United States who received any  
19 solicitation/telemarketing telephone calls from Defendant to said person’s cellular  
20 telephone made through the use of any automatic telephone dialing system or an  
21 artificial or prerecorded voice and such person had revoked any prior express  
22 consent to receive such calls prior to the calls within the four years prior to the  
23 filing of this Complaint.

24 26. Plaintiff represents, and is a member of, The DNC Class, consisting  
25 of all persons within the United States registered on the National Do-Not-Call  
26 Registry for at least 30 days, who had not granted Defendant prior express consent  
27 nor had a prior established business relationship, who received more than one call  
28 made by or on behalf of Defendant that promoted Defendant’s products or services,  
within any twelve-month period, within four years prior to the filing of the

1 complaint.

2 27. Plaintiff represents, and is a member of, The DNC Revocation Class,  
3 consisting of all persons within the United States registered on the National Do-  
4 Not-Call Registry for at least 30 days, who received more than one call made by or  
5 on behalf of Defendant that promoted Defendant's products or services, after  
6 having revoked consent and any prior established business relationship, within any  
7 twelve-month period, within four years prior to the filing of the complaint.

8 28. Defendant, its employees and agents are excluded from The Classes.  
9 Plaintiff does not know the number of members in The Classes, but believes the  
10 Classes members number in the thousands, if not more. Thus, this matter should  
11 be certified as a Class Action to assist in the expeditious litigation of the matter.

12 29. The Classes are so numerous that the individual joinder of all of its  
13 members is impractical. While the exact number and identities of The Classes  
14 members are unknown to Plaintiff at this time and can only be ascertained through  
15 appropriate discovery, Plaintiff is informed and believes and thereon alleges that  
16 The Classes includes thousands of members. Plaintiff alleges that The Classes  
17 members may be ascertained by the records maintained by Defendant.

18 30. Plaintiff and members of The ATDS Class and The ATDS Revocation  
19 Class were harmed by the acts of Defendant in at least the following ways:  
20 Defendant illegally contacted Plaintiff and ATDS Class members via their cellular  
21 telephones thereby causing Plaintiff and ATDS Class and ATDS Revocation Class  
22 members to incur certain charges or reduced telephone time for which Plaintiff and  
23 ATDS Class and ATDS Revocation Class members had previously paid by having  
24 to retrieve or administer messages left by Defendant during those illegal calls, and  
25 invading the privacy of said Plaintiff and ATDS Class and ATDS Revocation Class  
26 members.

27 31. Common questions of fact and law exist as to all members of The  
28 ATDS Class which predominate over any questions affecting only individual

1 members of The ATDS Class. These common legal and factual questions, which  
2 do not vary between ATDS Class members, and which may be determined without  
3 reference to the individual circumstances of any ATDS Class members, include,  
4 but are not limited to, the following:

- 5           a. Whether, within the four years prior to the filing of this  
6           Complaint, Defendant made any telemarketing/solicitation call  
7           (other than a call made for emergency purposes or made with  
8           the prior express consent of the called party) to a ATDS Class  
9           member using any automatic telephone dialing system or any  
10          artificial or prerecorded voice to any telephone number  
11          assigned to a cellular telephone service;
- 12          b. Whether Plaintiff and the ATDS Class members were damaged  
13          thereby, and the extent of damages for such violation; and
- 14          c. Whether Defendant should be enjoined from engaging in such  
15          conduct in the future.

16          32. As a person that received numerous telemarketing/solicitation calls  
17          from Defendant using an automatic telephone dialing system or an artificial or  
18          prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting  
19          claims that are typical of The ATDS Class.

20          33. Common questions of fact and law exist as to all members of The  
21          ATDS Revocation Class which predominate over any questions affecting only  
22          individual members of The ATDS Revocation Class. These common legal and  
23          factual questions, which do not vary between ATDS Revocation Class members,  
24          and which may be determined without reference to the individual circumstances of  
25          any ATDS Revocation Class members, include, but are not limited to, the  
26          following:

- 27               a. Whether, within the four years prior to the filing of this  
28               Complaint, Defendant made any telemarketing/solicitation call

(other than a call made for emergency purposes or made with the prior express consent of the called party) to an ATDS Revocation Class member, who had revoked any prior express consent to be called using an ATDS, using any automatic telephone dialing system or any artificial or prerecorded voice to any telephone number assigned to a cellular telephone service;

b. Whether Plaintiff and the ATDS Revocation Class members were damaged thereby, and the extent of damages for such violation; and

c. Whether Defendant should be enjoined from engaging in such conduct in the future.

34. As a person that received numerous telemarketing/solicitation calls from Defendant using an automatic telephone dialing system or an artificial or prerecorded voice, after Plaintiff had revoked any prior express consent, Plaintiff is asserting claims that are typical of The ATDS Revocation Class.

35. Plaintiff and members of The DNC Class and DNC Revocation Class were harmed by the acts of Defendant in at least the following ways: Defendant illegally contacted Plaintiff and DNC Class and DNC Revocation Class members via their telephones for solicitation purposes, thereby invading the privacy of said Plaintiff and the DNC Class and DNC Revocation Class members whose telephone numbers were on the National Do-Not-Call Registry. Plaintiff and the DNC Class and DNC Revocation Class members were damaged thereby.

36. Common questions of fact and law exist as to all members of The DNC Class which predominate over any questions affecting only individual members of The DNC Class. These common legal and factual questions, which do not vary between DNC Class members, and which may be determined without reference to the individual circumstances of any DNC Class members, include, but

are not limited to, the following:

- a. Whether, within the four years prior to the filing of this Complaint, Defendant or its agents placed more than one solicitation call to the members of the DNC Class whose telephone numbers were on the National Do-Not-Call Registry and who had not granted prior express consent to Defendant and did not have an established business relationship with Defendant;
- b. Whether Defendant obtained prior express written consent to place solicitation calls to Plaintiff or the DNC Class members' telephones;
- c. Whether Plaintiff and the DNC Class member were damaged thereby, and the extent of damages for such violation; and
- d. Whether Defendant and its agents should be enjoined from engaging in such conduct in the future.

37. As a person that received numerous solicitation calls from Defendant within a 12-month period, who had not granted Defendant prior express consent and did not have an established business relationship with Defendant, Plaintiff is asserting claims that are typical of the DNC Class.

38. Common questions of fact and law exist as to all members of The DNC Class which predominate over any questions affecting only individual members of The DNC Revocation Class. These common legal and factual questions, which do not vary between DNC Revocation Class members, and which may be determined without reference to the individual circumstances of any DNC Revocation Class members, include, but are not limited to, the following:

- a. Whether, within the four years prior to the filing of this Complaint, Defendant or its agents placed more than one solicitation call to the members of the DNC Class whose

1 telephone numbers were on the National Do-Not-Call Registry  
2 and who had revoked any prior express consent and any  
3 established business relationship with Defendant;

4 b. Whether Plaintiff and the DNC Class member were damaged  
5 thereby, and the extent of damages for such violation; and

6 c. Whether Defendant and its agents should be enjoined from  
7 engaging in such conduct in the future.

8 39. As a person that received numerous solicitation calls from Defendant  
9 within a 12-month period, who, to the extent one existed, had revoked any prior  
10 express consent and any established business relationship with Defendant, Plaintiff  
11 is asserting claims that are typical of the DNC Revocation Class.

12 40. Plaintiff will fairly and adequately protect the interests of the members  
13 of The Classes. Plaintiff has retained attorneys experienced in the prosecution of  
14 class actions.

15 41. A class action is superior to other available methods of fair and  
16 efficient adjudication of this controversy, since individual litigation of the claims  
17 of all Classes members is impracticable. Even if every Classes member could  
18 afford individual litigation, the court system could not. It would be unduly  
19 burdensome to the courts in which individual litigation of numerous issues would  
20 proceed. Individualized litigation would also present the potential for varying,  
21 inconsistent, or contradictory judgments and would magnify the delay and expense  
22 to all parties and to the court system resulting from multiple trials of the same  
23 complex factual issues. By contrast, the conduct of this action as a class action  
24 presents fewer management difficulties, conserves the resources of the parties and  
25 of the court system, and protects the rights of each Classes member.

26 42. The prosecution of separate actions by individual Classes members  
27 would create a risk of adjudications with respect to them that would, as a practical  
28 matter, be dispositive of the interests of the other Classes members not parties to

1 such adjudications or that would substantially impair or impede the ability of such  
2 non-party Class members to protect their interests.

3 43. Defendant has acted or refused to act in respects generally applicable  
4 to The Classes, thereby making appropriate final and injunctive relief with regard  
5 to the members of the Classes as a whole.

### 6 **FIRST CAUSE OF ACTION**

#### 7 **Negligent Violations of the Telephone Consumer Protection Act**

8 **47 U.S.C. §227(b).**

#### 9 **On Behalf of the ATDS Class and ATDS Revocation Class**

10 44. Plaintiff repeats and incorporates by reference into this cause of action  
11 the allegations set forth above at Paragraphs 1-43.

12 45. The foregoing acts and omissions of Defendant constitute numerous  
13 and multiple negligent violations of the TCPA, including but not limited to each  
14 and every one of the above cited provisions of *47 U.S.C. § 227(b)*, and in particular  
15 *47 U.S.C. § 227 (b)(1)(A)*.

16 46. As a result of Defendant's negligent violations of *47 U.S.C. § 227(b)*,  
17 Plaintiff and the Class Members are entitled an award of \$500.00 in statutory  
18 damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

19 47. Plaintiff and the ATDS Class and ATDS Revocation Class members  
20 are also entitled to and seek injunctive relief prohibiting such conduct in the future.

### 21 **SECOND CAUSE OF ACTION**

#### 22 **Knowing and/or Willful Violations of the Telephone Consumer Protection** 23 **Act**

24 **47 U.S.C. §227(b)**

#### 25 **On Behalf of the ATDS Class and the ATDS Revocation Class**

26 48. Plaintiff repeats and incorporates by reference into this cause of action  
27 the allegations set forth above at Paragraphs 1-43.

28 49. The foregoing acts and omissions of Defendant constitute numerous

1 and multiple knowing and/or willful violations of the TCPA, including but not  
2 limited to each and every one of the above cited provisions of *47 U.S.C. § 227(b)*,  
3 and in particular *47 U.S.C. § 227 (b)(1)(A)*.

4 50. As a result of Defendant's knowing and/or willful violations of *47*  
5 *U.S.C. § 227(b)*, Plaintiff and the ATDS Class and ATDS Revocation Class  
6 members are entitled an award of \$1,500.00 in statutory damages, for each and  
7 every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)* and *47 U.S.C. § 227(b)(3)(C)*.

8 51. Plaintiff and the Class members are also entitled to and seek injunctive  
9 relief prohibiting such conduct in the future.

### 10 **THIRD CAUSE OF ACTION**

#### 11 **Negligent Violations of the Telephone Consumer Protection Act**

#### 12 **47 U.S.C. §227(c)**

#### 13 **On Behalf of the DNC Class and the DNC Revocation Class**

14 52. Plaintiff repeats and incorporates by reference into this cause of action  
15 the allegations set forth above at Paragraphs 1-43.

16 53. The foregoing acts and omissions of Defendant constitute numerous  
17 and multiple negligent violations of the TCPA, including but not limited to each  
18 and every one of the above cited provisions of *47 U.S.C. § 227(c)*, and in particular  
19 *47 U.S.C. § 227 (c)(5)*.

20 54. As a result of Defendant's negligent violations of *47 U.S.C. § 227(c)*,  
21 Plaintiff and the DNC Class and DNC Revocation Class Members are entitled an  
22 award of \$500.00 in statutory damages, for each and every violation, pursuant to  
23 *47 U.S.C. § 227(c)(5)(B)*.

24 55. Plaintiff and the DNC Class and DNC Revocation Class members are  
25 also entitled to and seek injunctive relief prohibiting such conduct in the future.

26 ///

**FOURTH CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227 et seq.**

**On Behalf of the DNC Class and DNC Revocation Class**

56. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-43.

57. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of 47 U.S.C. § 227(c), in particular 47 U.S.C. § 227 (c)(5).

58. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227(c), Plaintiff and the DNC Class and DNC Revocation Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(c)(5).

59. Plaintiff and the DNC Class and DNC Revocation Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

**FIRST CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(b)**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class and ATDS Revocation Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B).
- Any and all other relief that the Court deems just and proper.

**SECOND CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(b)**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the ATDS Class and ATDS Revocation Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C).
- Any and all other relief that the Court deems just and proper.

**THIRD CAUSE OF ACTION**

**Negligent Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(c)**

- As a result of Defendant's negligent violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class and DNC Revocation Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(c)(5).
- Any and all other relief that the Court deems just and proper.

**FOURTH CAUSE OF ACTION**

**Knowing and/or Willful Violations of the Telephone Consumer Protection Act**

**47 U.S.C. §227(c)**

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(c)(5), Plaintiff and the DNC Class and DNC Revocation Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(c)(5).

- Any and all other relief that the Court deems just and proper.

60. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully Submitted this 21st Day of January, 2020.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff